

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THE UNITED STATES OF AMERICA

v,

ANTONIO TAYLOR

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CRIMINAL NO. 00-354-2

(C.A. NO. 08-3294)

**MEMORANDUM**

On October 15, 2001, Antonio Taylor pleaded guilty to a felon in possession of a firearm charge under 18 U.S.C. §§922(g)(1) and 924(e). On April 1, 2002, he was sentenced within the Sentencing Guidelines to 200 months, as an armed career criminal with three prior violent felony convictions. On November 1, 2007 the Sentencing Commission clarified how intervening and non-intervening prior convictions should be interpreted. Taylor contends that because he was not advised in October 2001 of the revision relating to how intervening and non-intervening prior convictions would eventually be interpreted under the Guidelines as revised.

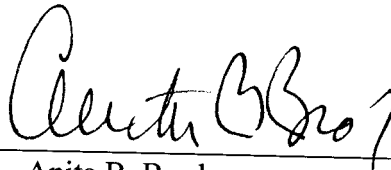
First of all Taylor's §2255 claim is time barred. Under 28 §2255, a one year period of limitation shall apply. The one year limitation period begins to run from the date of judgment of conviction and becomes final ten days thereafter, that is, from the time that the notice of appeal has expired §2255(f)(1). The judgment of conviction was entered on April 4, 2002. Therefore, the ten-day period for filing a notice of appeal expired April 16, 2002. None of the other events mentioned subsections (2)-(4) are applicable and therefore Taylor's petition is simply not timely.

Second, because the plea was taken in October 2001 and Amendment 907 was enacted in 2007, information as to Amendment 907 was unavailable to his lawyer when Taylor was being advised. Therefore, Taylor's lawyer cannot be found ineffective for failing to advise Taylor of

the amendment.

Third, Taylor argues that his counsel was ineffective for failing to inform him of the possible relief offered to him under Amendment 907, of the Sentencing Guidelines that became effective on November 1, 2007. Relief is only possible if it comes within 18 U.S.C. § 3582(c)(2). That section only allows amendments to be retroactive if made retroactive under Guideline Section 1B1.1. The latter amendment does not include Amendment 907 as among those that are made retroactive.

For these reasons Taylor's petition will be denied.



Anita B. Brody,

J.

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*XL: Speedy Trial*  
*copies sent \_\_\_\_\_ to:*

*copies mailed 07-08-2009 to:*  
*Antonio Taylor, wft.*